

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN FRANCIS,

Defendant.

4:23-CR-3045

ORDER

This matter is before the Court on the Magistrate Judge's Findings and Recommendation ([filing 63](#)) recommending that the Court deny the defendant's motion to dismiss ([filing 42](#)). The defendant has not objected to the Magistrate Judge's findings and recommendation. See [NECrimR 59.2\(a\)](#).

[Title 28 U.S.C. § 636\(b\)\(1\)](#) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. [NECrimR 59.2\(e\)](#). The defendant was expressly advised that "failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation." [Filing 63 at 9](#). And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); see also *United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006).

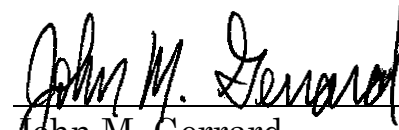
Accordingly, the Court will adopt the Magistrate Judge's recommendation that the defendant's motion to dismiss be denied, and any objection is deemed waived.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation ([filing 63](#)) are adopted.
2. The defendant's motion to dismiss ([filing 42](#)) is denied.

Dated this 6th day of June, 2024.

BY THE COURT:



John M. Gerrard
Senior United States District Judge